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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,096	07/30/2003	Birgit Kufner	P03,0274	8482

26574 7590 03/16/2006

SCHIFF HARDIN, LLP  
PATENT DEPARTMENT  
6600 SEARS TOWER  
CHICAGO, IL 60606-6473

EXAMINER

PENDLETON, DIONNE

ART UNIT	PAPER NUMBER
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2646

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/630,096

Applicant(s)

KUFNER, BIRGIT

Examiner

Dionne H. Pendleton

Art Unit

2646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6 and 7 is/are allowed.
- 6) ☒ Claim(s) 15, 16, 22 and 23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. 3/7/2006.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Response to Amendment*

1. In light of the telephone interview held 3/7/2006, the finality of that action mailed 1/11/2006 is withdrawn.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claim 15** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites a hearing aid device of **figure 7, which comprises:**

a housing (40);

voltage source (42) with housing and ventilation opening (44);

ventilation mechanism (46);

and battery case (41).

Figure 7 fails to further teach a "battery chamber" which can be rotated and turned so as to open or close said battery chamber. In fact, the embodiment of claim 7 includes a means for opening or occluding the vent channel of the battery case by the rotateable movement of the on/off switch (46). Accordingly, claim 15 is misdescriptive.

Alternatively, should the Applicant assert that claim 15 does not read on the embodiment of claim 7, but rather is illustrated in the hearing device of figures 1-3, please notice that **figures 1-3 illustrate** the following:

a hearing device housing (1);  
voltage source (6) with voltage source housing (12) and ventilation opening (13A,G,D);  
ventilation mechanism ((10A,D,G & 15A,G,D);  
and battery chamber (7) in which the voltage source is arranged.

Figures 1-3 fail to further illustrate a "battery case" configured to accept the voltage source (6,12). According, claim 15 is misdescriptive.

*Note, claim 16 is rejected due to its' dependency upon rejected base claim 15.*

3. **Claim 22** recites the limitation "the opening" in line 15. There is insufficient antecedent basis for this limitation in the claim. Does "the opening" refer to the "ventilation opening" OR the "sealing device opening"?

*Note, claim 23 is rejected due to its' dependency upon rejected base claim 22.*

#### ***Allowable Subject Matter***

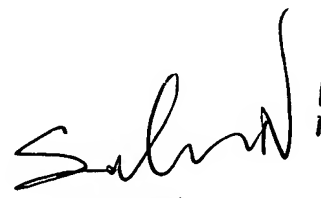
4. Claims 6-7 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne H. Pendleton whose telephone number is 571-272-7497. The examiner can normally be reached on 9-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Dionne Pendleton

  
**SUHAN M**  
**PRIMARY EXAMINER**